

Examiner Castellano is thanked for the courtesies extended to the undersigned during the interview of November 20, 2002. The amendments to claims 1, 23 and 37 discussed during the interview have been made.

As mentioned, claims 1, 23 and 37 have been amended. Claims 1-44 remain pending. Reconsideration of the application is requested.

The present invention includes a collapsible container with a plurality of walls pivotally connected to a base. These walls can include a plurality of end walls and a plurality of sidewalls. At least one of the sidewalls includes at least one latching member that cooperates with a latching member of one end wall to secure the sidewall and end wall together when these walls are in their upright positions. The container also includes a wall locking system that has a plurality of first wall locking members on at least one of the sidewalls and at least one wall locking member on at least one of the end walls. These locking members cooperate with each other to prevent the sidewalls from moving relative to the end walls in at least one direction when the sidewalls and end walls are in their upright positions. The collapsible container also has a wall alignment system that includes a first member extending from an inwardly facing surface of one sidewall and a second member that extends from an inwardly facing surface of one end wall. The first and second members of the wall alignment system are configured to cooperate together and align adjacent sidewalls and end walls before the sidewalls and end walls achieve a completely upright position.

Claims 1-6, 13-16, 19, 20-26, 31, 32, 35-40, 43 and 44 were rejected under either 35 U.S.C. §102(b) or 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,917,255 to Foy et al. that discloses a collapsible container having a base and a plurality

of sidewalls and end walls. The walls of the Foy container pivot relative to the base by way of hinges. The adjacent sidewalls and end walls are connected to each other by delta shaped locking tabs 68 received within delta shaped openings 84. The Foy container also includes a latching member 92 that is positioned within one wall and engages an opening in an adjacent wall when released. The patent to Foy discloses that alignment between adjacent walls is assisted by an obtuse guide surface 82 on one of the walls.

In the Office Action, the disclosed latching member 92 is relied upon to anticipate the latching member and latching system recited in claims 1 and 23. It was asserted that the tabs 68, the delta-shaped openings 84 and the stop surfaces 86, 88 of the openings 84, anticipate the locking systems recited in claims 1 and 23. It was also asserted that these same tabs 68 and the stop surfaces 86, 88 anticipate the recited aligning systems. These interpretations of the Foy patent cannot be sustained for at least the reasons discussed below.

#### Claim 1

The patent to Foy does not disclose the container recited in the pending claims. For example, claim 1 recites a container including (1) a pair of cooperating latching members, (2) a wall locking system and (3) a wall alignment system. The wall locking system includes a plurality of first wall locking members on said first sidewall and at least one second wall locking member on said first end wall. The second wall locking member cooperates with said first wall locking members to prevent the first sidewall from moving relative to said first end wall in at least one direction when the first sidewall and first end wall are in upright positions.

It was asserted in the Office Action that the delta-shaped locking tabs 68 and the stop surfaces 86, 88 of their corresponding delta-shaped openings 84 anticipate the recited locking system. Even arguing that these elements of Foy do meet these recited locking system elements, the patent to Foy cannot disclose the recited wall alignment system. It is well settled case law that one part of a device disclosed in a publication cannot be used to anticipate two separate features of a claim. Hence, the delta-shaped locking tabs 68 and their corresponding delta-shaped openings 84 cannot be considered part of the alignment system recited in claim 1 because they have already been relied upon to teach the recited locking system. Similarly, if they are relied upon to teach the alignment system, then they cannot be relied upon to disclose the recited locking system. Using either interpretation, the patent to Foy fails to disclose the container recited in claim 1.

Contrary to the position taken in the Office Action, the container disclosed in the Foy patent only includes an obtuse angled guide surface for aligning the adjacent walls. The patent does not disclose any other elements that are used to align adjacent walls prior to the walls achieving their upright position. As clearly seen in the figures of the Foy patent, the angled guide surface does not include (1) an inwardly facing first member extending from an inner surface of one of the sidewalls and (2) a second member extending from an inner surface of one of the end walls in order to cooperate with the first member and align adjacent sidewalls and end walls before the sidewalls and end walls achieve a completely upright position as recited. Additionally, the patent to Foy does not disclose that the first member is open along an inwardly facing surface of its respective wall such that the first member receives the second member as the second of

the sidewalls and end walls pivots to an upright position. Hence, the recited alignment system is not disclosed. Withdrawal of the rejection is requested.

#### Claim 23

Claim 23 has been amended to recite that (1) the wall alignment system includes a first member that extends away from a face of a first of the walls and toward the interior of the container and (2) the pair of receiving members form an opening along the face of the other of the one sidewall and one end wall for slidably receiving the first member when the first wall is rotated to its upright position. As clearly evident from a review of the Foy patent, the interior facing surfaces of the walls of the Foy container do not include any type of members that engage each other and guide the sidewalls as they are moved to an upright position. Additionally, they do not include a pair of members that slidably receive another member. Instead, the inwardly facing surfaces of the Foy container are free of the members recited in claim 23. Therefore, the patent to Foy does not anticipate claim 23. Withdrawal of the rejection is requested.

#### Claim 38

Claim 38 recites a container having a plurality of walls and a hinging system for securing at least one wall to the base. The hinging system is recited to include a plurality of hinging members and a pivot axis about which the wall pivots. The container also includes a plurality of support members that extend away from a surface of the wall or the base and a plurality of support receiving members positioned on the other of the wall or the base for receiving the support members. Claim 38 expressly recites that the

support members and their respective support receiving members are positioned between the outermost surface of one of the hinging members and an end of the wall. Claim 38 has been amended to recite that the support members and support receiving members separate when their respective wall assumes a folded position. An example of these support members and the support receiving members is discussed on page 12 of the pending specification and identified in the figures as elements 81, 82, respectively. Nothing in the Foy reference is positioned between the outermost surface of a hinging member and the end of the wall. And, even if the outermost hinge members of Foy are erroneously considered support members, they do not separate when the wall of Foy assumes a folded position. Therefore, the patent to Foy does not anticipate claim 38. Withdrawal of the rejections is requested.

For all of the above-discussed reasons, the patent to Foy does not anticipate claims 1, 23 and 38. Therefore, the rejections cannot be sustained. Additionally, nothing in the prior art would have motivated one of ordinary skill in the art to modify the container of Foy to arrive at the containers recited in claims 1, 23 and 38. Withdrawal of the rejections is requested.

Claims 1, 5, 6, 16, 19, 21 and 22 were rejected under either 35 U.S.C. §102(b) or 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,015,056 to Overholt et al. that discloses a collapsible container with a plurality of walls that are pivotally secured to a base. Each sidewall has a latching member 66, a large tab member 82 and a small tab member 86 that are each received within a respective slot in an end wall.

Contrary to the position taken in the Office Action, the patent to Overholt does not disclose a collapsible container with the locking and aligning systems recited in claim

1. Specifically, the collapsible container described in the container to Overholt only includes a single locking member that enters a single locking slot in an adjacent wall. The container disclosed in the patent to Overholt does not include a locking system with a plurality of first wall locking members. Additionally, it does not include a single second wall locking member that cooperates with the plurality of first wall locking members to prevent relative movement between the walls.

Moreover, the container disclosed in the patent to Overholt does not disclose a wall alignment system that includes alignment members that extend toward the interior of the container from their respective walls as recited in claim 1 and discussed above with respect to the patent to Foy. Instead, the elements relied upon in the Office Action to teach the recited alignment system extend away from their respective walls in a direction that is outside the container.

For all of the above-discussed reasons, the patent to Overholt does not anticipate claim 1. Therefore, the rejection cannot be sustained. Additionally, nothing in the prior art would have motivated one of ordinary skill in the art to modify the container of Overholt to arrive at the container recited in claim 1. Withdrawal of the rejections is requested.

Claims 7-9, 11, 27 and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Foy in view of U.S. Patent No. 5,853,099 to Lessard that discloses a container with a plurality of hinged sidewalls and a base. Lessard is relied upon to disclose a wall latching member that includes a biased panel that deflects away from the interior of a container. However, Lessard does not disclose the locking and aligning systems recited in claim 1. Therefore, even if Foy were modified as asserted in the


Office Action, the resulting combination would not arrive at the collapsible container having the alignment system recited in claim 1. Withdrawal of the rejection is requested.

Claims 10, 12, 29 and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Foy in view of Lessard, and further in view of Overholt. A portion of the living hinge 77 has been considered a deformation prevention member as recited in the rejected claims. As clearly seen in the figures of the Overholt patent, the portion of the living hinge relied upon in the Office Action extends along the width of the flange portions of the end walls. It does not extend between an outer rear surface of a biased member and an outer rear surface of an end wall for limiting the distance that the recited biased member can deflect. Additionally, it does not include a member that extends from its outer rear surface for preventing deformation. Therefore, while the patent to Overholt does disclose a biased member, it does not disclose the specific biased member having a deformation prevention member extending between the outer rear surface of the biased panel and an outer rear surface of an end wall as recited in the rejected claims. Withdrawal of the rejection is requested.

Claims 17, 18, 33, 34, 41 and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Foy in view of U.S. Patent No. 4,591,065 to Foy. Foy ('065) is relied upon to teach stacking projections used when vertically stacking multiple containers. However, this patent to Foy fails to disclose what Foy ('255) lacks. Therefore, even if motivation existed for the modification set forth in the Office Action, the resulting combination would not arrive at the collapsible container recited in the pending claims. Withdrawal of the rejection is requested.

In view of the foregoing, Applicants respectfully submit that claims 1-44 are patentably distinguishable over the relied upon prior art, and that this application as a whole is in condition for allowance. Early and favorable notice to that effect is therefore respectfully solicited.

Respectfully submitted,

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Marked-Up Version Of The Specification And Claims For 09/781,986

**In the Title:**

Please amend the Title as follows:

Collapsible Container With Hinged Walls Having Latching and Alignment Systems

**In the Specification:**

Please amend the specification as follows:

Page 1, paragraph 1,

Collapsible Container With Hinged Walls Having Latching and Alignment Systems

**In the Claims:**

Please amend claims 1, 23 and 37 as follows:

1. (Amended) A collapsible container comprises:
  - a) first and second sidewalls pivotally connected to a base, and first and second end walls pivotally connected to said base, said first sidewall includes at least one latching member that cooperates with a latching member of said first end wall to secure said first sidewall and said first end wall together when said first sidewall and said first end wall are in upright positions;
  - b) a wall locking system that includes a plurality of first wall locking members on said first sidewall and at least one second wall locking member on said first end wall, said second wall locking member cooperates with said first wall locking members to prevent the first sidewall from moving relative to said first end wall

in at least one direction when the first sidewall and first end wall are in upright positions; and

- c) a wall alignment system that includes a first member extending <sup>124</sup> inwardly towards an interior of said collapsible container from a first of [one of] said sidewalls and end walls when said sidewalls and end walls are in a substantially upright position and a second <sup>125</sup> member [that extends] extending from [one of said] a second of said sidewalls and end walls, wherein said first <sup>84</sup> member of said wall alignment system is open along an inwardly facing surface of said first of said sidewalls and ends walls such that said first member receives said second <sup>68</sup> member as the second of said sidewalls and end walls pivots to an upright position [and second members of said wall alignment system cooperate] to align adjacent sidewalls and end walls before said sidewalls and end walls achieve a completely upright position.

23. (Amended) A collapsible container comprising:

- d) a base, a plurality of sidewalls and a plurality of end walls, said sidewalls and end walls being secured to said base so that said sidewalls and end walls can move relative to said base and each other, one of said sidewalls cooperating with one of said end walls to form a corner of said container when positioned upright;
- e) a wall alignment system including a first member extending away from a face of one of said one sidewall [or] and one end wall and toward an interior of said collapsible container when said sidewalls and end walls are in the upright position, and a pair of receiving members extending away from a face of the other of said one sidewall and said one end wall and toward an interior of said

collapsible container, said receiving members forming an opening along the face of said other of said one sidewall and one end wall for slidably receiving said first member when said one sidewall and said one end wall are being moved to an upright position; and

- f) a latching system having a first latching member on said one sidewall and a second latching member on said one end wall, wherein said latching members cooperate to secure the one sidewall and one end wall together as said corner is formed.

37. (Amended) A collapsible container comprises:

- a) a base;
- b) a plurality of walls, at least one of said walls including first and second ends having first and second end surfaces, respectively, that extend perpendicular to the length of said at least one wall;
- c) a hinging system for securing the at least one wall to said base and permitting said at least one wall to rotate relative to said base between an upright position and a folded position, said hinging system including plural hinging members and a pivot axis about which the at least one wall pivots;
- d) a plurality of support members extending away from a surface of said at least one wall or an upper surface of said base; and
- e) a plurality of support receiving members positioned on the other of said surface of said at least one wall or said upper surface of said base for receiving said support members when said at least one wall is in the upright position and for disengaging from said support members when said at least one wall is in said folded position,

each said support member and respective support receiving member being positioned between an outermost surface of an outermost hinging member and one of the ends of the at least one wall.